

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

v.

TEXAS INSTRUMENTS, INC.,

Defendant.

Civil Action No. 6:12-CV-499-MHS

LEAD CASE

Jury Trial Demanded

BLUE SPIKE, LLC,

Plaintiff,

v.

ADOBE SYSTEMS INC.,

Defendant.

Civil Action No. 6:12-CV-558-MHS

CONSOLIDATED CASE

ORAL ARGUMENT REQUESTED

Jury Trial Demanded

**DECLARATION OF EUGENE Y. MAR IN SUPPORT OF DEFENDANT ADOBE
SYSTEMS INC.'S MOTION TO TRANSFER VENUE TO THE UNITED STATES
DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA
UNDER 28 U.S.C. § 1404(a)**

I, Eugene Y. Mar, am an attorney at Farella Braun+Martel LLP, counsel for Defendant Adobe Systems Inc. (“Adobe”) in this matter. I have personal knowledge of the facts stated herein, and, if called upon, could and would testify competently to them. I make this declaration in support of Adobe’s Motion to Transfer Venue to the United States District Court for the Northern District of California Under 28 U.S.C. § 1404(a).

1. Attached hereto as **Exhibit 1** is a true and correct copy of an Information Disclosure Statement By Applicant filed on April 17, 2007 in the prosecution of U.S. Patent Application Serial No. 09/657,181 (the “’181 Application”).

2. Attached hereto as **Exhibit 2** is a true and correct copy of the face sheets to U.S. Patent Nos. 6,523,113, 5,530,751, 6,978,370, 6,823,455, 6,668,246, 6,282,650, 5,633,932; 6,785,815, 5,943,422, 6,381,747, 6,049,838, 6,457,058, 4,424,414, 4,200,770, and 4,218,582, which were cited during the prosecution of U.S. Patent Nos. 7,346,472, 7,660,700, 7,949,494, and 8,214,175 (collectively, the “Asserted Patents”).

3. Attached hereto as **Exhibit 3** is a true and correct copy of the face sheets to U.S. Patent Nos. 5,646,997, 5,912,972, 6,233,684, 6,453,252, 6,405,203, 6,665,489, and 5,629,980, which were cited during the prosecution of the Asserted Patents.

4. Attached hereto as **Exhibit 4** is a true and correct copy of an inventor declaration filed in the prosecution of the ’181 Application on December 12, 2000.

5. Attached hereto as **Exhibit 5** is a true and correct copy of a Revocation of Power of Attorney filed in the prosecution of the ’181 Application on March 31, 2005.

6. Attached hereto as **Exhibit 6** are true and correct copies of communications exchanged between Mr. Moskowitz and the Patent Office during the prosecution of the ’181 Application.

7. Attached hereto as **Exhibit 7** are true and correct copies of communications exchanged between Mr. Moskowitz and the Patent Office during the prosecution of U.S. Patent Application Serial No. 12/005,229.

8. Attached hereto as **Exhibit 8** are true and correct copies of communications exchanged between Mr. Moskowitz and the Patent Office during the prosecution of U.S. Patent Application Serial No. 12/655,357.

9. Attached hereto as **Exhibit 9** is a true and correct copy of an inventor declaration filed in the prosecution of U.S. Patent Application Serial No. 13/035,964 on February 18, 2011.

10. Attached hereto as **Exhibit 10** is a true and correct copy of the face sheets to U.S. Patent No. 8,238,553, U.S. Patent Application Publication No. 2012/0209955, U.S. Patent No. 8,265,278, U.S. Patent Application Publication No. 2012/0239686, U.S. Patent No. 8,281,140, U.S. Patent No. 8,307,213, U.S. Patent Application Publication No. 2012/0300928, U.S. Patent Application Publication No. 2012/0278627, U.S. Patent Application Publication No. 2013/0030938, and U.S. Patent Application Publication No. 2013/0014271.

11. Attached hereto as **Exhibit 11** is a true and correct copy of the Florida Department of State's Detail by Entity Name for Wistaria Trading Inc., as it appeared on the website <http://www.sunbiz.org> on February 14, 2013.

12. Attached hereto as **Exhibit 12** is a true and correct copy of the Florida Department of State's Detail by Document Number for Blue Spike, Inc., as it appeared on the website <http://www.sunbiz.org> on February 7, 2013.

13. Attached hereto as **Exhibit 13** is a true and correct copy of the Florida Department of State's Detail by Officer/Registered Agent Name for Canopus Medical, LLC, as it appeared on the website <http://www.sunbiz.org> on March 18, 2013.

14. Attached hereto as **Exhibit 14** is a true and correct copy of Wistaria Trading Inc.'s 2013 Florida Profit Corporation Annual Report filed with Florida's Secretary of State on January 20, 2013.

15. Attached hereto as **Exhibit 15** is a true and correct copy of Blue Spike, Inc's 2013 Florida Profit Corporation Annual Report filed with Florida's Secretary of State on January 20, 2013.

16. Attached hereto as **Exhibit 16** is a true and correct copy of the face sheet to U.S. Patent No. 5,613,004.

17. Attached hereto as **Exhibit 17** is a true and correct copy of the RSA Conference 2013 website, as it appeared on March 26, 2013.

18. Attached hereto as **Exhibit 18** is a true and correct copy of the “Contact Us” page from Garteiser Honea’s website, <http://ghiplaw.com>, as it appeared on March 26, 2013.

19. Attached hereto as **Exhibit 19** are true and correct copies of Assignments of U.S. Patent Application Serial Nos. 09/657,181, 12/655,357 and 12/005,229 from Messrs. Moskowitz and Berry to Blue, Spike, Inc.

20. Attached hereto as **Exhibit 20** is a true and correct copy of the Articles of Organization of Blue Spike, LLC, filed with the Secretary of State of Texas on May 14, 2012.

21. Attached hereto as **Exhibit 21** is a true and correct copy of the Patent Assignment Details for the Asserted Patents, which was recorded on August 5, 2012, as it appeared on the Patent and Trademark Office’s website on February 12, 2013.

22. Attached hereto as **Exhibit 22** is a true and correct copy of the relevant pages for the Eastern District of Texas and the Northern District of California from “Table C-7 - U.S. District Courts—Intellectual Property Cases, Securities/Commodities/Exchanges Cases, and Bankruptcy Appeals Filed, Terminated, and Pending During the 12-Month Period Ending September 30, 2012,” which is part of the Judicial Business of the U.S. Courts.

23. Attached hereto as **Exhibit 23** is a true and correct copy of “Table C-5 - U.S. District Courts—Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending September 30, 2012,” which is part of the Judicial Business of the U.S. Courts.

24. Attached hereto as **Exhibit 24** is a true and correct copy of the LinkedIn profile for Scott Moskowitz, as it appeared on March 26, 2013.

25. Attached hereto as **Exhibit 25** is a true and correct copy of a LexisNexis Real-Time Motor Vehicle Registration Report for Scott Moskowitz, dated February 8, 2013.

26. Attached hereto as **Exhibit 26** is a true and correct copy of a Westlaw Voter Registration Record for Scott Moskowitz, obtained on February 8, 2013.

27. Attached hereto as **Exhibit 27** is a true and correct copy of the search results at the airline flight tracking site flightstats.com for (1) daily non-stop flights from Dallas/Fort Worth International Airport (“DFW”) to San Francisco International Airport in California (“SFO”), and (2) daily non-stop return flights from SFO to DFW.

28. Attached hereto as **Exhibit 28** is a true and correct copy of an American Airlines webpage at the domain aa.com, showing flights and travel times between DFW and SFO.

29. Attached hereto as **Exhibit 29** is a true and correct copy of the search results at the airline flight tracking site flightstats.com for (1) daily non-stop flights from DFW to Fort Lauderdale-Hollywood International Airport in Florida (“FLL”), and (2) daily non-stop return flights from FLL to DFW.

30. Attached hereto as **Exhibit 30** is a true and correct copy of an American Airlines webpage at the domain aa.com, showing flights and travel times between DFW and FLL.

31. Attached hereto as **Exhibit 31** is a true and correct copy of an American Airlines webpage at the domain aa.com, showing flights and flight distances between Seattle-Tacoma International Airport (“SEA”) and DFW.

32. Attached hereto as **Exhibit 32** is a true and correct copy of an American Airlines webpage at the domain aa.com, showing flights and flight distances between SEA and SFO.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: August 5, 2013

/s/ Eugene Y. Mar

Eugene Y. Mar

FARELLA BRAUN + MARTEL LLP
235 Montgomery Street, 17th Floor
San Francisco, CA 94104
Phone: (415) 954-4400
Fax: (415) 954-4480

